

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ROBIN REESE, individually and on behalf of
all others similarly situated,

Plaintiff,

v.

ODWALLA, INC. AND THE COCA-COLA CO.,

Defendants.

Case No.: 13-CV-947 YGR

ORDER DISSOLVING STAY AND DIRECTING
FILING OF MOTION TO DISMISS

In its March 25, 2014 Order (Dkt. No. 60), the Court granted the motion of Defendants Odwalla, Inc. and The Coca-Cola Company (collectively “Odwalla”) based upon primary jurisdiction grounds. The primary jurisdiction doctrine “allows courts to stay proceedings or to dismiss a complaint without prejudice pending the resolution of an issue within the special competence of an administrative agency...and is to be used only if a claim involves an issue of first impression or a particularly complicated issue Congress has committed to a regulatory agency.” *Clark v. Time Warner Cable*, 523 F. 3d 1110, 1114 (9th Cir. 2008). The Court granted the motion to dismiss, but stayed the action rather than dismissing it without prejudice, while awaiting the completion of the U.S. Food and Drug Administration’s (“FDA”) action concerning the term “evaporated cane juice” (or “ECJ”).


On July 25, 2016, the parties filed a Joint Notice (Dkt. No. 85) indicating that the FDA had completed its process and issued administrative guidance concerning ECJ and requesting that the stay be lifted. Based thereon, the Court **ORDERS** that the Stay of this Action is **DISSOLVED**, and the action may proceed.

In the Joint Notice, Odwalla also requests that the Court rule on the other grounds asserted in its prior motion to dismiss. The prior motion to dismiss having been granted, there is no pending

1 motion before the Court. Odwalla may file its motion to dismiss within 14 days of issuance of this
2 order on a regular, noticed-motion schedule on an available law and motion hearing date. In
3 briefing the motion and opposition, the parties are directed that their briefs and supporting papers
4 should be complete in themselves, and should **not** incorporate prior motions or briefing by
5 reference.

6 **IT IS SO ORDERED.**

7 Date: July 27, 2016

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9 YVONNE GONZALEZ ROGERS
10 UNITED STATES DISTRICT COURT JUDGE
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